

# **EXHIBIT 44**

**AFFIDAVIT OF SERVICE**

**State of Texas**

**County of Harris**

**281st Court**

Case Number: 202338238

Plaintiff:

**Zurich American Insurance Company, HCC International Insurance Company PLC, Philadelphia Indemnity Insurance Company and Everest Reinsurance Company,**

vs.

Defendant:

**Apache Corporation,**

For:

James M. Kimbell  
Clark Hill Plc  
909 Fannin Suite 2300  
Houston, TX 77010

Received by Karen Melissa Tabora on the 7th day of July, 2023 at 5:45 pm to be served on **Jon Graham, 2107 Research Forest Dr, The Woodlands, TX 77380.**

I, Karen Melissa Tabora, being duly sworn, depose and say that on the **10th day of July, 2023 at 2:45 pm,**  
I:

**INDIVIDUALLY/PERSONALLY** served by delivering a true copy of the **Testimony Subpoena And Subpoena Duces Tecum To Non-Party Jon Graham** with the date of service endorsed thereon by me, to: **Jon Graham** at the address of: **2107 Research Forest Dr, The Woodlands, TX 77380** and informed said person of the contents therein, in compliance with state statutes.

**Additional Information pertaining to this Service:**

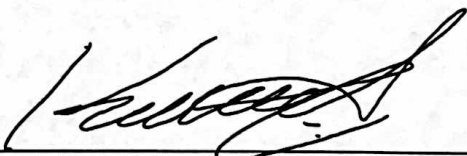
7/10/2023 2:45 pm Jon Graham was served at work address 2107 Research Forest Dr, The Woodlands, TX 77380, Mr. Jon Graham refused to accept the eleven dollars witness fee. Served at time and address stated.

**AFFIDAVIT OF SERVICE For 202338238**

I certify that I am approved by the Judicial Branch Certification Commission (JBCC) to deliver citations and other notices from any District, County or Justice Courts in and for the State of Texas. I am competent to make this oath; I am not less than eighteen years of age, I am not a party to the above-referenced cause, I have not been convicted of a felony or a crime involving moral turpitude, and I am not interested in the outcome of the above-referenced cause.

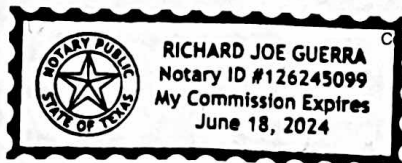
Subscribed and Sworn to before me on the 11th day of July, 2023 by the affiant who is personally known to me.

\_\_\_\_\_  
NOTARY PUBLIC

  
\_\_\_\_\_  
**Karen Melissa Tabora**  
PSC-17801 Exp-1/31/2024

**Interaction Civil Process Investigations**  
**5773 Woodway Dr. #125**  
**Houston, TX 77057**  
**(832) 606-8958**

Our Job Serial Number: RJG-2023000349



CAUSE NO. 202338238

ZURICH AMERICAN INSURANCE	§	IN THE DISTRICT COURT OF
COMPANY, HCC INTERNATIONAL	§	
INSURANCE COMPANY PLC,	§	
PHILADELPHIA INDEMNITY	§	
INSURANCE COMPANY and EVEREST	§	
REINSURANCE COMPANY,	§	
	§	
<i>Plaintiffs,</i>	§	HARRIS COUNTY, TEXAS
	§	
vs.	§	
	§	
APACHE CORPORATION,	§	
<i>Defendant.</i>	§	
	§	281st JUDICIAL DISTRICT

**TESTIMONY SUBPOENA AND SUBPOENA DUCES TECUM**  
**TO NON-PARTY JON GRAHAM**

THE STATE OF TEXAS

ISSUED ON July 7, 2023.

TO Jon Graham  
79 Angelique Way  
The Woodlands, Texas 77382

TO ANY SHERIFF OR CONSTABLE OF THE STATE OF TEXAS OF OTHER PERSON AUTHORIZED TO SERVE AND EXECUTE SUBPOENAS AS PROVIDED IN TEXAS RULE OF CIVIL PROCEDURE 176. YOU ARE HEREBY COMMANDED TO SUMMON:

Jon Graham  
79 Angelique Way  
The Woodlands, Texas 77382

to appear at the 281st District Court, Harris County Civil Courthouse, 201 Caroline, 14<sup>th</sup> Floor, Houston, Texas 77002 to give live testimony on **Tuesday, July 11, 2023 at 9:00 a.m.**, and who is represented to reside within one hundred fifty miles of the Courthouse of Harris County, Texas, in which the above suit is pending, or who may be found within such distance at the time of the trial, to be examined and provide testimony and produce all documents shown on the attached Exhibit A either in person or by electronic means before the trial date stated herein. Please note that a continuance will not continue the production date for the documents. The examination will continue day to day until completed.

Pursuant to Texas Civil Practice and Remedies Code § 22.004, payment in the amount of \$1.00 is also included with this subpoena. Additional payment for the reasonable costs of reproducing these documents will be paid at the time of production.

**CONTEMPT: FAILURE BY ANY PERSON WITHOUT ADEQUATE EXCUSE TO OBEY A SUBPOENA SERVED UPON THAT PERSON MAY BE DEEMED A CONTEMPT OF THE COURT FROM WHICH THE SUBPOENA IS ISSUED OR A DISTRICT COURT IN THE COUNTY IN WHICH THE SUBPOENA IS SERVED, AND MAY BE PUNISHED BY FINE OR CONFINEMENT, OR BOTH. TEX. R. CIV. P. 176.8(a).**

This subpoena was issued at the request of Plaintiffs, whose attorneys of record are:

**CLARK HILL PLC**

/s/ James M. Kimbell

**JAMES M. KIMBELL**

State Bar No. 11420000

909 Fannin, Suite 2300

Houston, Texas 77010

(713) 951-5600 – Phone

(713) 951-5660 – Facsimile

JKimbell@clarkhill.com

**ATTORNEYS FOR PLAINTIFF ZURICH AMERICAN  
INSURANCE COMPANY**

**LOCKE LORD LLP**

/s/ Philip Eisenberg

Philip Eisenberg (TX Bar No. 24033923)

[peisenberg@lockelord.com](mailto:peisenberg@lockelord.com)

Christopher A. Verducci (TX Bar No. 24051470)

[cverducci@lockelord.com](mailto:cverducci@lockelord.com)

600 Travis Street

Houston, Texas 77002

(713) 226-1200 (Tel.) / (713) 223-3717 (Fax)

**ATTORNEYS FOR PLAINTIFF HCC  
INTERNATIONAL INSURANCE COMPANY PLC**

**MANIER & HEROD**

/s/ Scott Williams

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Nashville, Tennessee 37203

(615) 244-0300 (Tel.) / (615) 242-4203 (Fax)

*Pro Hac Vice Motions Pending*

**ATTORNEYS FOR PLAINTIFF PHILADELPHIA**

**INDEMNITY INSURANCE COMPANY**

**CHIESA, SHAHINIAN & GIANTOMASI, PC**

/s/ Darren Gryzb

Darren Gryzb (NJ Bar No. 016142005)

[dgryzb@csglaw.com](mailto:dgryzb@csglaw.com)

Jase A. Brown (NJ Bar No. 225202018)

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105 Eisenhower Parkway

Roseland, New Jersey 07068

(973) 325-1500 (Tel.) / (973) 530-2277 (Fax)

*Pro Hac Vice Motions Pending*

**ATTORNEYS FOR PLAINTIFF EVEREST**

**REINSURANCE COMPANY**

**RETURN OF SERVICE**

CAME to hand this the \_\_\_\_\_ day of July, 2023, at \_\_\_\_\_ o'clock \_\_\_\_\_.m., and executed this the \_\_\_\_\_ day of July, 2023, at \_\_\_\_\_ o'clock \_\_\_\_\_.m., in the following manner: By delivering a true and correct copy hereof to \_\_\_\_\_, for the witness **Jon Graham** located at 79 Angelique Way, The Woodlands, Texas 77382, and tendering \$11.00.

Return this the \_\_\_\_\_ day of July, 2023.

By: \_\_\_\_\_  
(Person who is not a party to the suit and is not less than 18 years of age.)

**ACCEPTANCE OF SERVICE OF SUBPOENA BY WITNESS PER RULE 176 T.R.C.P.**

I, the undersigned named in the Subpoena acknowledge receipt, on behalf of the stated Witness, of a copy thereof, and hereby accept service of the attached subpoena, and will appear at said trial on said date and time directed in this Subpoena.

\_\_\_\_\_  
**SIGNATURE**

\_\_\_\_\_  
**DATE**

***Rule 176.8(a) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both.***

**Not executed as to the witness for the following reasons:**

\_\_\_\_\_  
\_\_\_\_\_

**FEE FOR SERVICE OF SUBPOENA: \$\_\_\_\_\_**



## **EXHIBIT A**

### **INSTRUCTIONS**

1. You are hereby requested in accordance with the instructions of the Texas Rules of Civil Procedure to produce complete, legible duplicate originals of all documents and tangible evidence responsive to each category or request (and if copies are not perfectly legible, then the originals of such documents) that are in the possession, custody, or control, or constructive possession, custody or control of Plaintiff for examination and copying in this proceeding on or before five (5) days from receipt of this Request. The word “document” is defined expansively below.

2. These Requests for Production of Documents are continuing in nature. You are requested and required to timely supplement your answers when appropriate or necessary to make them correct and complete.

3. To the extent a document requested is being stored in electronic format, please produce such document or file on a CD, DVD, flash-drive in its native format. If the document exists in hardcopy and electronically, please produce both. Please note that this instruction, and accompanying discovery requests, requires that you perform a thorough search of all of the electronic storage systems (server, storage device, personal computer, laptop, PDA, etc.) which could contain or store discoverable information or documents.

### **DEFINITIONS**

1. The relevant time period of these requests is January 1, 2021 through July 31, 2022, unless otherwise indicated.

2. **Plaintiffs:** The term “Plaintiffs” refers to Plaintiff Zurich American Insurance Company (“Zurich”), Plaintiff HCC International Insurance Company PLC (“HCCI”), Plaintiff Philadelphia Indemnity Insurance Company (“Philadelphia”), and Plaintiff Everest Reinsurance Company (“Everest”) (collectively “Plaintiffs” or “Sureties”) and any of their present or former directors, officers, agents, representatives, employees, attorneys and/or other persons acting on their behalf.

3. **Defendant:** The term “Apache” or “Defendant” refers to Apache Corporation (“Apache”) and any of their present or former agents, representatives, employees, attorneys and/or other persons acting on their behalf.

4. **GOM Shelf:** The term “GOM Shelf” means and refers to Fieldwood Energy, LLC (“FWE”), Fieldwood Energy I LLC (“FWE I”), any related entities, and GOM Shelf LLC and any of its present or former directors, officers, agents, employees, and all persons acting on behalf of or for the benefit of the preceding.

5. **You:** The term “you” or “your” means and refers to GOM Shelf, and any of its present or former directors, officers, agents, employees, and all persons acting on behalf of or for the benefit of the preceding.



6. The unqualified term “**person**” shall encompass both natural and juridical persons, including human beings; corporations; partnerships; associations; joint ventures; unincorporated associations; professional associations; partnerships; or corporations; governmental or political agencies, entities, subdivisions (federal, state, and local); and all other private and public organizations and entities cognizable at law. Where an employee performs some task about which an inquiry is made in these requests as part of his or her employment, “person” shall be deemed to include both the employing and employed person.

7. **FWE Chapter 11 Plan:** The term “FWE Chapter 11 Plan” shall mean and refer to the bankruptcy plan that became effective on August 27, 2021. The Case Number for the bankruptcy was 20-33948 (MI).

8. **Legacy Apache Assets:** means the properties Fieldwood Energy acquired from Apache pursuant to the Purchase and Sale Agreement dated July 18, 2013.

9. **Decommissioning Agreement:** refers to the Decommissioning Agreement entered into between Fieldwood Energy, GOM Shelf, and the Apache PSA Parties effective September 30, 2013 (with all amendments).

10. **Decommissioning obligations:** refers to plugging and abandonment and other related decommissioning work, as set forth in the Decommissioning Agreement.

11. **Default:** The term “Default” shall mean and refer to GOM Shelf’s notification to the any government entity, such as the Bureau of Ocean Management and the Bureau of Safety and Environmental Enforcement, that it would not perform its decommission work associated with the 44 leases and certain pipelines from the Legacy Apache Assets.

12. **Document:** The terms “document” or “documents” shall be used in their broadest sense and shall mean and include all handwritten, printed, typed, taped, recorded, computer, or graphic matter of every kind and description, however produced or reproduced, or stored, including all computer-stored data. A draft or non-identical copy is a separate document within the meaning of this term. The term “document” also includes any tangible thing.

13. **Communication:** The term “communication” refers to the transmittal of information in the form of facts, ideas, inquiries, or otherwise; means or refers to all inquiries, discussions, conversations, negotiations, agreements, understandings, advice, representations, acceptances, bids, meetings, telephone conversations and notes thereof; letters, correspondence, facsimile transmissions, notes, telegrams, or other forms of disclosure, whether oral or written.

14. **Relating:** The term “relating” refers to concerning, referring, describing, or constituting, directly or indirectly.

15. **Lawsuit:** The term “Lawsuit” refers to the above-captioned proceeding.

16. **Complaint:** The term “Complaint” refers to Plaintiffs’ Original Petition.

**LIST OF DOCUMENTS TO PRODUCE**

1. Please provide all communications and documents related to and evidencing GOM Shelf's decision to send any notices of default to any government entity on its decommissioning obligations related to the Legacy Apache Assets.
2. Please provide all communications and analysis that lead to GOM Shelf's decision to send any notices of default of its decommissioning obligations related to the Legacy Apache Assets.
3. Please provide all information, communications, and documents that GOM Shelf considered and relied on when GOM Shelf made its decision to send its notices of default related to the Legacy Apache Assets.
4. Please provide any communications between you and Apache that relate to GOM Shelf's decision to send notices of default on its decommissioning obligations related to the Legacy Apache Assets.
5. Please provide any communications in between you and QuarterNorth Energy Inc. that relate to the decision to execute default notices related to the Legacy Apache Assets.
6. Please provide any communications between you and any other person or entity, including governmental, non-profit, for-profit, and all other entities, that relate to, contributed to, discussed, and/or caused GOM Shelf's notice of default on decommissioning obligations related to the Legacy Apache Assets.
7. Please provide any communications between you and Apache that relate to Apache's intent to draw/make a claim on Trust A, letters of credit, or on bonds in the event of a default on decommissioning obligations by GOM Shelf.
8. Please provide all communications and documents exchanged between Apache and GOM Shelf, including but not limited to Jon Graham, regarding GOM Shelf's ability to satisfy its decommissioning obligations related to the Legacy Apache Assets.
9. Please provide all communications between Apache and GOM Shelf related to the decision to or any restrictions upon the sale of any Legacy Apache Assets.
10. Please provide all documents sufficient to show all drawdowns on Trust A since the confirmation of the FWE Chapter 11 Plan.
11. Please provide documents sufficient to show the current balance and status of Trust A.
12. Any communications by and between you and Susman Godfrey attorneys, or any representative or employee of Apache Corporation, related to your July 6, 2023 Declaration.

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Becky Delancy on behalf of James Kimbell  
 Bar No. 11420000  
 bdelancy@clarkhill.com  
 Envelope ID: 77396086  
 Filing Code Description: No Fee Documents  
 Filing Description: Affidavit of Service  
 Status as of 7/11/2023 2:14 PM CST

**Case Contacts**

Name	BarNumber	Email	TimestampSubmitted	Status
Duane Brescia		dbrescia@clarkhill.com	7/11/2023 12:00:11 PM	SENT
Geoffrey L.Harrison		gharrison@susmangodfrey.com	7/11/2023 12:00:11 PM	SENT
Charlotte Oxley		coxley@susmangodfrey.com	7/11/2023 12:00:11 PM	SENT
Jeff McLaren		jmclaren@susmangodfrey.com	7/11/2023 12:00:11 PM	SENT
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